

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE MARCH 9, 2010

SENATE BILL

No. 961

Introduced by Senator Wright
(Coauthors: Senators Cox, Negrete McLeod, and Strickland)
(Coauthor: Assembly Member Hall)

February 5, 2010

An act to add Section 1367.655 to the Health and Safety Code, and to add Section 10123.205 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 961, as amended, Wright. Health care coverage: cancer treatment.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Existing law requires health care service plan contracts and health insurance policies to provide coverage for all generally medically accepted cancer screening tests and requires those plans and policies to also provide coverage for the treatment of breast cancer. Existing law imposes various requirements on contracts and policies that cover prescription drug benefits.

This bill would prohibit health care service plan contracts and health insurance policies that provide coverage for orally administered cancer medications from charging a copayment, *as defined*, for the medications in excess of 200% of the lowest copayment required by the plan or policy for brand name medications in the formulary of the plan or policy,

as specified. The bill would specify that its provisions do not apply to a health care benefit plan, contract, or health insurance policy with the Board of Administration of the Public Employees' Retirement System.

Because a willful violation of the bill's requirements relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) There are 10 million Americans currently living with cancer.

4 (b) Approximately 1.5 million new cases of cancer will be
5 diagnosed in the United States in 2010.

6 (c) In California, 27, 725 men and 26, 735 women are expected
7 to die from cancer this year.

8 (d) Nearly one out of every two Californians born today will
9 develop cancer at some point in their lives.

10 (e) It is likely that one in five Californians will die of cancer.

11 (f) It is the intent of the Legislature that a health plan or insurer
12 that includes on its formulary, or authorizes on the basis of medical
13 necessity, oral medications used to treat cancer shall not require
14 copayments or other charges for those medications at a level that
15 effectively makes the medication inaccessible to a patient.

16 SEC. 2. Section 1367.655 is added to the Health and Safety
17 Code, to read:

18 1367.655. (a) A health care service plan contract issued,
19 amended, or renewed on or after January 1, 2011, that provides
20 coverage for orally administered cancer medication used to kill or
21 slow the growth of cancerous cells shall not charge a copayment
22 for these medications in excess of 200 percent of the lowest
23 copayment required by the plan for brand name medications in the
24 plan's formulary.

1 (b) Nothing in this section shall prohibit a health care service
2 plan contract from requiring prior approval or authorization for
3 the use of any medication described in subdivision (a). However,
4 if the health care service plan contract authorizes the dispensing
5 of the medication for any reason, the copayment provisions of
6 subdivision (a) shall apply.

7 (c) Nothing in this section shall be construed to require a health
8 care service plan contract to provide coverage for any additional
9 medication not otherwise required by law. *Nothing in this section*
10 *shall prohibit a health care service plan from providing differential*
11 *cost-sharing between generic and nongeneric orally administered*
12 *cancer medications.*

13 (d) This section shall not apply to a health care benefit plan or
14 contract entered into with the Board of Administration of the Public
15 Employees' Retirement System pursuant to the Public Employees'
16 Medical and Hospital Care Act (Part 5 (commencing with Section
17 22750) of Division 5 of Title 2 of the Government Code).

18 (e) *For purposes of this section, "copayment" means a flat*
19 *dollar amount an enrollee pays, out-of-pocket, at the time of*
20 *receiving a health care service or when paying for a prescription,*
21 *after any applicable deductible. The term shall not be construed*
22 *to include any other forms of cost-sharing.*

23 SEC. 3. Section 10123.205 is added to the Insurance Code, to
24 read:

25 10123.205. (a) A health insurance policy issued, amended, or
26 renewed on or after January 1, 2011, that provides coverage for
27 orally administered cancer medication used to kill or slow the
28 growth of cancerous cells shall not charge a copayment for these
29 medications in excess of 200 percent of the lowest copayment
30 required by the policy for brand name medications in the policy's
31 formulary.

32 (b) Nothing in this section shall prohibit a health insurance
33 policy from requiring prior approval or authorization for the use
34 of any medication described in subdivision (a). However, if the
35 policy authorizes the dispensing of the medication for any reason,
36 the copayment provisions of subdivision (a) shall apply.

37 (c) Nothing in this section shall be construed to require a health
38 insurance policy to provide coverage for any additional medication
39 not otherwise required by law. *Nothing in this section shall prohibit*

1 *a health insurer from providing differential cost-sharing between*
2 *generic and nongeneric orally administered cancer medications.*

3 (d) This section shall not apply to a policy of health insurance
4 purchased by the Board of Administration of the Public Employees'
5 Retirement System pursuant to the Public Employees' Medical
6 and Hospital Care Act (Part 5 (commencing with Section 22750)
7 of Division 5 of Title 2 of the Government Code).

8 (e) *For purposes of this section, "copayment" means a flat*
9 *dollar amount an insured pays, out-of-pocket, at the time of*
10 *receiving a health care service or when paying for a prescription,*
11 *after any applicable deductible. The term shall not be construed*
12 *to include any other forms of cost-sharing.*

13 SEC. 4. No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.